

Message Text

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TAGS: WIPO, EINV
SUBJ: WIPO: REVISION OF THE PARIS CONVENTION ON INDUSTRIAL
PROPERTY JUNE 27-JULY 8

SUMMARY: SECOND MEETING OF GROUP PREPARING FOR DIPLOMATIC
CONFERENCE TO REVISE PARIS CONVENTION ON INDUSTRIAL PROPERTY
MADE CONSIDERABLE PROGRESS IN ACCOMMODATING DEVELOPING
COUNTRIES' DESIRE TO REVISE ARTICLE 5(A) OF CONVENTION
REGARDING SANCTIONS FOR PATENT ABUSES AND LESS PROGRESS ON
MEETING SOVIET DEMANDS TO MORE FULLY INCORPORATE INVENTORS'
CERTIFICATES INTO CONVENTION. END SUMMARY.

1. SECOND MEETING OF PREPARATORY INTERGOVERNMENTAL GROUP
(PIC) ON REVISION OF THE PARIS CONVENTION CONCLUDED WITH
CONSIDERABLE CONSENSUS ON A REDRAFT OF ARTICLE 5(A)
(DEALING WITH SANCTIONS FOR PATENT ABUSES SUCH AS FAULTURE
TO WORK) AND LIMITED PROGRESS ON MORE FULLY INCORPORATING
INVENTORS' CERTIFICATES INTO THE CONVENTION. A PRELIMINARY
DRAFT CALLING FOR NATIONAL INDUSTRIAL PROPERTY OFFICES TO
FURNISH PATENT INFORMATION TO LOCAL PATENT APPLICANTS
FILING IN FOREIGN COUNTRIES WAS DISCUSSED IN CONNECTION
WITH ARTICLE 4 BIS AND WILL BE CONSIDERED BY A WORKING
GROUP AT THE NEXT MEETING OF THE PIC IN NOVEMBER ON THE
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BASIS OF A REDRAFT TO BE PREPARED BY WIPO DIRECTOR GENE-
RAL. ALSO DISCUSSED, WITH LITTLE PROGRESS, AND
SCHEDULED FOR CONSIDERATION BY THE WORKING GROUP IN
NOVEMBER, WERE ISSUES RELATED TO ARTICLE 5 QUATER AND
PREFERENTIAL TREATMENT IN CONNECTION WITH FEES AND
PRIORITY PERIOD. THE QUESTION OF VOTING AT THE NEXT
DIPLOMATIC CONFERENCE WAS AGAIN CONSIDERED, INDECISIVELY,

AND SET FOR FURTHER CONSIDERATION AT THE LAST PIC MEETING BEFORE THE DIPLOMATIC CONFERENCE.

2. LANGUAGE OF REVISED ARTICLE 5(A) IS ESSENTIALLY FIXED EXCEPT FOR QUESTION OF TIME LIMITS CONCERNING HOW SOON AFTER PATENT GRANT NON-VOLUNTARY (COMPULSARY) LICENSES MAY BE ISSUED FOR NON-WORKING AND HOW SOON AFTER PATENT GRANT FORFEITURE OR REVOCATION FOR NON-WORKING MAY BE ORDERED. ALSO OPEN ARE THE TIME LIMITS REGARDING THE MAXIMUM LENGTH OF EXCLUSIVE NON-VOLUNTARY LICENSES AS WELL AS THE MINIMUM LENGTH OF TIME THE PATENTEE MUST BE GIVEN AFTER SUCH A LICENSE BEFORE RESERVATION FOR NON-WORKING CAN BE DECREED. DIFFICULT ISSUES, IN TERMS OF PRIVATE SECTOR REACTION AND APPROVAL, WILL INVOLVE THE CONCEPT OF EXCLUSIVE NON-VOLUNTARY LICENSES FOR NON-WORKING AND WHETHER ARTICLE 5(A) SHOULD BE UNIVERSALLY APPLICABLE OR SHOULD HAVE SPECIAL EXCEPTIONS FOR DEVELOPING COUNTRIES. US INSERTED STATEMENT IN REPORT MAKING CLEAR THAT ITS AGREEMENT TO PROPOSED NEW ARTICLE DEPENDENT ON SATISFACTORY SOLUTION TO QUESTIONS OF TIME LIMITS AND UNIVERSALITY.

3. REGARDING INVENTORS' CERTIFICATES, TENTATIVE AGREEMENT HAS BEEN REACHED ON MENTIONING INVENTORS' CERTIFICATES (INCLUDING THE MEXICAN CERTIFICATE OF INVENTION) IN ARTICLE 1(2) (B), AND PERMITTING VARIATIONS OF THE LIMITED OFFICIAL USE

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KINDS OF PATENTS AND INVENTORS' CERTIFICATES IN ARTICLE 1(4), PROVIDED THE VARIATIONS SATISFY THE DEFINITIONS IN ARTICLE 1(2) (B). STILL AT ISSUE ARE THE QUESTION OF WHETHER A COUNTRY SHOULD BE PERMITTED TO ISSUE INVENTORS' CERTIFICATES FOR ANY TECHNICAL FIELD FOR WHICH PATENTS ARE NOT ISSUED AND THE QUESTION OF WHETHER INVENTORS' CERTIFICATES SHOULD BE LIMITED TO THE SAME TERM AS A PATENT AND BE SUBJECT TO THE SAME GROUNDS AND CONDITIONS FOR VALIDITY CHALLENGES AS PATENTS. MEXICO AND ALGERIA ONLY LDCS TO OPENLY SUPPORT INVENTORS' CERTIFICATES.

4. DEVELOPING COUNTRIES WERE PLEASED WITH EARLY AGREEMENT ON ARTICLE 5(A) AND POSSIBILITY OF SPECIAL TREATMENT FOR THEM IN IT. THIS DEVELOPMENT SET TONE FOR POSITIVE MEETING AND SHOULD HELP TO BLUNT CRITICISM OF PACE OF PROGRESS ON REVISION OF PARIS CONVENTION AT AUGUST UNCTAD MEETING ON INDUSTRIAL PROPERTY.

5. FYI: FRANCE AND LUXEMBOURG HAVE RATIFIED THE EUROPEAN PATENT CONVENTION SO THAT IT WILL COME INTO FORCE OCTOBER 9, 1977. RECEIPT OF FIRST APPLICATION BY EUROPEAN PATENT OFFICE ON JUNE 1, 1978 NOW PROBABLE.SORENSEN

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Disposition Comment: 25 YEAR REVIEW
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Disposition Event:
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